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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 29 September 2016 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Belgium to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to submit herewith the report of Belgium on its implementation of resolution 2270 (2016) (see annex).

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Annex to the note verbale dated 29 September 2016 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

[Original: French]

Report of Belgium to the Security Council Committee established pursuant to resolution 1718 (2006) on implementation of resolution 2270 (2016)

Belgium and the other members of the European Union have jointly implemented the restrictive measures against the Democratic Republic of Korea ("the DPRK") imposed by resolution 2270 (2016) of the Security Council by taking the following common measures:

(a) Decision (CFSP) 2016/319 of the Council of the European Union of 4 March 2016 implementing the decision of the Security Council to add names to the list of persons and entities subject to the travel ban and asset freeze;

(b) Implementing Regulation (EU) 2016/315 of the European Commission of 4 March 2016, amending Regulation (EC) no. 329/2007 of the Council of the European Union concerning restrictive measures against the DPRK, enabling the imposition of the asset freeze on the newly-designated persons and entities;

(c) Decision (CFSP) 2016/476 of the Council of the European Union of 31 March 2016, which sets out the commitment of the European Union to implement all measures contained in resolution 2270 (2016) and provides a clear framework for implementing measures taken by the European Union in the context of that resolution, notably:

- An expansion of export and import prohibitions to include any item (except food or medicine) that could contribute to the development of the operational capabilities of the armed forces of the DPRK;
- A requirement to expel any DPRK diplomat engaged in illicit activities and working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions, including exemptions;
- A requirement to expel any foreign national involved in illicit activities, i.e. any individual who is not a citizen of the DPRK and who is working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions;
- A requirement to close offices of designated entities and expel their representatives;
- A ban on specialized instruction or training of nationals of the DPRK;
- A requirement to inspect cargo in airports, seaports and free trade zones that originates from or is destined for the DPRK, or cargo for which the DPRK, nationals of that country, or persons or entities acting on their behalf or at their

direction have served as intermediaries, or cargo that is being transported on DPRK-flagged aircraft or maritime vessels;

- A requirement to ban DPRK chartering of vessels or aircraft or providing crew services, and to deregister any vessels belonging to it;
- A requirement to prohibit nationals of States Members of the European Union from operating DPRK-flagged vessels or flying the flag of that country;
- A ban on flights of any aircraft suspected of carrying contraband, with the exception of landing for inspection;
- A prohibition of port entry by any vessel controlled by a designated entity or suspected of engaging in illicit activities;
- An export ban on any item that could contribute to DPRK nuclear or ballistic programmes or other weapons of mass destruction programmes;
- A ban on import from the DPRK of such minerals as coal, iron, iron ore, gold, titanium ore, vanadium ore and rare-earth minerals;
- A ban on export to the DPRK of aviation fuel, including aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel;
- An asset freeze on DPRK Government entities or those of the Worker's Party of Korea associated with illegal programmes, and on individuals or entities acting on their behalf;
- A prohibition of the opening and operation of new branches, subsidiaries or representative offices of DPRK banks;
- A requirement to close existing branches, subsidiaries and representative offices of DPRK banks within 90 days of the adoption of resolution 2270 (2016);
- A requirement to close existing representative offices, subsidiaries and banking accounts in the DPRK within 90 days of the adoption of resolution 2270 (2016);
- An extension of the prohibition on providing public and private financial support for trade with the DPRK if such support could contribute to illicit activities of that country.

(d) Regulation (EU) 2016/682 of the Council of the European Union of 29 April 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the DPRK, and implementing the measures provided under Council Decision (CFSP) 2016/476 of 31 March 2016 itemized above.

In addition, the European Union has taken further restrictive measures against the DPRK, as set out in Decision (CFSP) 2016/849 and Regulation (EU) 2016/841 of the Council of the European Union of 27 May 2016.

These regulations of the European Union Council are binding in their entirety and are directly applicable in the legal systems of all European Union Member States upon their publication in the Official Journal of the European Union.

At the national level, the following texts provide the legal basis for the application of these sanctions in Belgium:

- The Decree-law of 6 October 1944 regulating all transfers abroad of goods and assets between Belgium and foreign countries (amended by the Act of 28 February 2002);
- The Act of 11 May 1995 on the implementation of United Nations Security Council decisions;
- The Act of 13 May 2003 on the implementation of restrictive measures adopted by the Council of the European Union against States, certain individuals and entities.

Moreover, Belgium has legislation, at both the national level and that of the competent regional authorities, requiring that an export licence be obtained for any sale, supply, transfer or export of arms and related materiel to third countries. This legislation provides the basis for the implementation of the arms embargo against the DPRK and of the prohibition of the provision of related services.

The Act of 5 August 1991 on the import, export and transit of, and combating the traffic in, arms, munitions and equipment specifically intended for military use or for maintaining order, as well as related technology, as amended by the Act of 26 March 2003, forbids any person residing in Belgium to undertake any arms transaction without a licence issued for that purpose by the Minister of Justice. This law also provides that holders of such licences may not undertake any transaction that would violate an embargo decreed by an international organization of which Belgium is a member (articles 10 and 11).

The same law provides that any request for an export or transit licence must be denied if it is incompatible with Belgium's international obligations and the commitments it has undertaken to implement the arms embargoes decreed by the United Nations Organization, the Organization for Security and Cooperation in Europe, and the European Union (article 4, paras. 1 and 2).

The regional authorities also have their own strict legal framework in this regard.

On the basis of resolutions 1718 (2006) and 2270 (2016), and amended Common Position 2006/795/CFSP and amended Regulation (EC) no. 329/2007 of the Council of the European Union, any request for a licence to export arms to the DPRK will be denied.

With regard to the embargo on items, materials, equipment, goods and technology which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the DPRK, Belgium adheres to the requirements of Regulation (EC) no. 329/2007 of the Council of the European Union (consolidated version, Official Journal of the European Union of 29 May 2016) which forbids:

- The sale, supply, transfer or export of goods, materials or technologies which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the DPRK;

- The purchase, import or transport of such items from the DPRK;
- The provision of technical assistance, financing and financial assistance related to arms and to goods which could contribute to weapons of mass destruction-related programmes of the DPRK;
- The procurement of such services from the DPRK. These prohibitions apply directly to all activities carried out in the European Union and to the nationals of member States anywhere in the world.

With regard to the freeze on financial assets and economic resources and the prohibition on providing funds, the following shall apply:

- Article 6 of Regulation (EC) no. 329/2007 of the Council of the European Union, which stipulates the freeze and the prohibition on providing economic resources to listed persons and entities as provided for under paragraph 32 of resolution 2270 (2016);
- Articles 5a and 5b, which provide for a variety of financial prohibitions in accordance with paragraphs 33 to 36 of resolution 2270 (2016).

Moreover, banks and financial institutions are kept informed of European Union regulations regarding individuals and entities subject to the freezing of assets and the prohibition of providing economic resources by the Official Journal of the European Union, as well as through the circulars of the association of the Belgian Financial Sector Federation.

In addition to the freeze instituted under Regulation (EC) no. 329/2007 of the Council of the European Union on restrictive measures against the DPRK, article 1/1, added on 8 January 2016 to the Act of 11 May 1995 on implementation of the decisions of the United Nations Security Council, allows the Minister of Finance to take interim freeze measures via Ministerial Order with regard to additions to the lists of individuals and entities targeted by the United Nations that have not yet been covered under European regulations, in order to prevent any delay in the implementation of such measures.

This is the background of the Ministerial Order of 4 March 2016 on freezing the assets and other financial means specified under article 1/1 of the Act of 11 May 1995 on implementing the decisions of the United Nations Security Council in the execution of the resolutions on restrictive measures against the DPRK for freezing the assets and other financial means of persons, entities or groups that have been added to the lists of persons, entities or groups subject to the restrictive measures against the DPRK under resolution 2270 (2016). To date, no asset-freezing procedures or prohibitions on providing funds have had to be imposed in Belgium.

The General Administration of Customs and Excise is charged with the control of goods entering and leaving the European Union. It has accordingly instituted the measures necessary for the implementation of the sanctions regime against the DPRK.

Finally, with regard to the requirements for entry into Belgian territory and the issuance of visas, article 23 paragraph 1 (a) of Decision (CFSP) 2016/849 refers to annex I of resolution 2270 (2016), which contains the list of individuals subject to the travel ban, in connection with those individuals for whom the States Members of

the European Union are required to take the measures necessary to prevent their entry into or transit through their territories. Individuals subject to the travel ban, whether applied at the level of the United Nations or that of the European Union, are immediately added to the database of the Belgian computer programme used for processing visa applications. If an applicant matches an individual or an alias in the database, the application in question is automatically forwarded to the competent national authority for denial.